

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

JOINT APPENDIX

275

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

United States Court of Appeals
for the District of Columbia Circuit

NO. 17,184

FILED AUG 9 1962

Joseph W. Stewart
CLERK

LEROY STOCKS,

Petitioner

v.

UNITED STATES OF AMERICA,

Respondent

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

United States Court of Appeals
for the District of Columbia Circuit

FILED AUG 22 1962

Joseph W. Stewart
CLERK



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INDEX

	<u>Page</u>
Indictment	1
Plea	1
Excerpts from Transcript of Proceedings	2
Witness Robert A. Fountain	
Cross	2
Jury Verdict	6
Judgment and Commitment	7



JOINT APPENDIX

[Filed December 4, 1961]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

Grand Jury Impanelled on October 26, 1961, Sworn in on November 7, 1961.

The United States of America

v.

Leroy Stocks

) Criminal No. 1023-61
)
)) Grand Jury No. 1361-61
)) Violation:
)) 22 D.C.C. 502
)

(Assault With a Dangerous Weapon)

The Grand Jury charges:

On or about September 5, 1960, within the District of Columbia,
Leroy Stocks made an assault on Robert A. Fountain with a dangerous
weapon, that is, a knife.

/s/ David C. Acheson

Attorney of the United States in
and for the District of Columbia

A TRUE BILL:

* * *

[Filed December 8, 1961]

PLEA OF DEFENDANT

On this 8th day of December, 1961, the defendant Leroy Stocks,
appearing in proper person and by his attorney Wesley Williams, being
arraigned in open Court upon the indictment, the substance of the charge
being stated to him, pleads not guilty thereto.

The defendant is remanded to the District Jail.

By direction of

/s/ Matthew F. McGuire
Presiding Judge
Criminal Court Assignment

Present:

United States Attorney

By Harold Titus
Assistant U. S. Attorney

* * *

[Filed July 23, 1962]

EXCERPTS FROM TRANSCRIPT OF PROCEEDINGS

1

Washington, D. C.
Monday, Feb. 19, 1962

* * * * *

3

(Cross Examination of Complaining Witness.)

Whereupon

ROBERT A. FOUNTAIN

was called as a witness by the Government and having been duly sworn,
was examined and testified as follows:

(Direct Examination was not Transcribed.)

CROSS EXAMINATION

BY MR. WILLIAMS:

Q. Mr. Fountain, how long have you known Mr. Stocks? A. Around
five years.

Q. On this particular day, what time did you see him? A. Well, I
saw him earlier that morning.

Q. What time was that? A. I think that was around somewhere
between 9 and 10 o'clock.

Q. And did you go to his house? A. Yes.

Q. In other words, you went to his house on 4th Street about, as
you put it, 9 or 10 o'clock that morning of September 5, is that right?

A. That's right.

Q. Then what did you do there then? A. We had a couple of drinks and I left.

Q. You said we had a couple of drinks. What do you mean by a couple of drinks? A. Well, I would say a pint.

4 Q. Pint? A. (Nods affirmatively.)

Q. Two water glasses, right? A. We didn't drink it all.

Q. Most of it? A. I say a couple of drinks, small drinks.

Q. Didn't you have something before you drank that? A. No, I didn't.

Q. Did you go down to Simmons' place that morning? A. Yes.

Q. What time did you get to Simmons' place? A. That was right after we had this drink.

Q. And where is Simmons? A. He was living on Rhode Island Avenue about a couple of blocks.

Q. What did you do around there? A. We had a drink there, too, I think.

Q. Did you come back home -- at least to -- A. Yes, then I left.

Q. -- Leroy's house? A. And then I left.

Q. My question is, did you come back from Simmons to Leroy's house? A. Yes, yes.

5 Q. Did you go inside? A. I went to the front door.

Q. Now, what else did you do besides work at the construction company at that time? A. That was the only job I had then.

Q. You trained fighters, too, don't you -- or you did? A. No.

Q. Didn't you train prize fighters then? A. No, I haven't.

Q. Now, what was the occasion for you coming back to Leroy Stocks' house that evening? A. James Johnson had taken me home and when I got home my wife wasn't there, so Irma Bussie was going with Stocks, and by her and my wife being friends, and come around there sometimes, I figured she be there, so that's when I come back to see if she was there.

Q. And did you stay there for a while? A. No, I didn't stay there.

Q. Where were you when the telephone call came for you? A. What telephone -- I don't remember no telephone.

Q. Didn't you tell someone in the presence of Mary Matthews who was just on the stand to tell your wife you are not here? A. No.

6 Q. You didn't do that? A. I did not.

Q. Were you sober when you went back there? A. Yes, I was.

Q. Well, did you have some words and some blows pass between you and Leroy Stocks? A. Yes, I did.

Q. Just a minute. Where was that? A. That was in the kitchen.

Q. That was in the kitchen, right? A. Yes.

Q. And who struck the first blow? A. There wasn't no blow. He first come between me and Irma, it was mostly a push.

Q. Isn't it a fact that you struck him and told him that you would kill him if he called you that again? A. No.

Q. You say that didn't happen? A. No, I have never told him that I was going to kill him.

Q. Did you see any knives around there in the dining room? A. The only knife -- the first time I saw it was when he come up from the side in the hall -- that's the first time I saw it.

7 Q. Did you see Mary cutting the turkey in the dining room? A. No, I didn't.

Q. Did you have anything to drink when you came back there on this occasion? A. We would have if this hadn't happened, but I think, if you find out the police report, that the fifth that he had bought was broken -- the seal hadn't been broken.

Q. My query was, did you have anything to drink after you went back there? A. No, I didn't. I didn't have time.

Q. Were you there -- when you came back with Johnson, what happened to Johnson? A. Well, when Leroy Stocks was cutting me, I do remember seeing him in back of Leroy Stocks trying to make him stop.

Q. Now, let's get back to my question. When you came back with Johnson and before this fight, what happened to Johnson? A. I think he went in the kitchen and he ate a piece of turkey, I believe.

Q. Did you see Johnson go out and come back before the fight?
A. No, I didn't.

Q. Was Mary there at that time? A. Yes. She is the one that saved my life.

8 Q. I know. You said that before. My query is, was Mary there when Johnson was back in the kitchen eating turkey? A. Yes.

Q. And Mary was there when the argument started, is that correct? A. Well, I couldn't say.

Q. And you said before the argument started that Johnson did not go out and come back? A. Not to my remembrance.

Q. Oh, not to your remembrance. A. I can't remember anyone going out and coming back.

Q. I see. Let me ask you this. Do you carry a knife? A. I have never carried a knife.

Q. On this particular occasion, didn't you have a paring knife in your hand? A. No, indeed.

Q. You were on parole, were you not?

MR. MURPHY: Objection.

MR. WILLIAMS: I will withdraw that question.

BY MR. WILLIAMS:

Q. You are the same Robert Fountain convicted of housebreaking, aren't you?

MR. MURPHY: Objection.

9 THE COURT: Overruled.

MR. MURPHY: Your Honor, might I direct him to the time and place and circumstances -- give him an opportunity to check?

THE COURT: It goes to the credibility of the witness. On prior convictions you had better specify approximately the time.

MR. WILLIAMS: I don't have the exact date but I do know approximately.

THE COURT: Ask the question.

BY MR. WILLIAMS:

Q. Was that 1958? A. Yes.

THE COURT: The nature of the offense, conviction?

MR. WILLIAMS: Housebreaking.

THE WITNESS: It was in the fifties.

MR. WILLIAMS: That is all.

MR. MURPHY: I have no further questions.

(Whereupon the witness left the stand.)

* * *

[Filed February 19, 1962]

JURY VERDICT

On this 19 day of February, 1962, came the attorney of the United States; the defendant in proper person and by his attorney Wesley Williams, Esquire; whereupon the jurors of the regular Petit Jury panel serving in Criminal Court No. being called, are sworn upon their voir dire; and thereupon comes a jury of good and lawful persons of the District of Columbia, to-wit:

- | | |
|------------------------|----------------------|
| 1. Wilford K. McKenzie | 7. Ruth H. Bray |
| 2. Louis J. Still | 8. Hugh E. Jones |
| 3. Paul L. Cerwonka | 9. Margaret Greene |
| 4. Gloria Vernon | 10. Eunice B. Lewis |
| 5. Inez Rodgers | 11. Helen B. Tanner |
| 6. Charles Watkins | 12. Joseph L. Taylor |

who are sworn to well and truly try the issue joined herein; whereupon the Court directs the calling of two (2) alternate jurors; Yvonne K. Webster and Aline Holder are sworn as Alternate jurors #1 and #2 respectively; thereupon after hearing further evidence, argument by counsel and instructions of the Court, the alternate jurors are excused and the jury retire to consider their verdict; whereupon the jury return into Court and upon their oath say that the defendant is guilty as indicted. The defendant is remanded to the District of Columbia Jail and the case is referred to the Probation Officer of the Court.

By direction of

/s/ Luther W. Youngdahl
 Presiding Judge
 Criminal Court #3

* * *

[Filed April 5, 1962]

JUDGMENT AND COMMITMENT

On this 30th day of March, 1962 came the attorney for the government and the defendant appeared in person and by his Attorney W. S. Williams, Esquire

IT IS ADJUDGED that the defendant has been convicted upon his plea of Not Guilty and a verdict of Guilty of the offense of ASSAULT WITH A DANGEROUS WEAPON as charged and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Three (3) to Nine (9) Years.

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

/s/ Luther W. Youngdahl
United States District Judge
